

Senate Bill No. 898

Passed the Senate August 26, 2004

Secretary of the Senate

Passed the Assembly August 16, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

└

CHAPTER _____

An act to amend Sections 35277 and 35278 of the Education Code, relating to school districts.

LEGISLATIVE COUNSEL'S DIGEST

SB 898, Burton. Schoolsite replacement housing.

Existing law authorizes a local governing agency, as defined, to acquire real property to replace existing dwelling units demolished in connection with a new schoolsite, as defined, if certain conditions are met and requires that displaced persons be given a right of first refusal to purchase or rent the replacement dwelling units.

This bill would also authorize a community college district or an eligible nonprofit corporation, as defined by the bill, to acquire real property for those purposes under the same conditions and requirements as a local governing agency and would require that the acquisition be from a willing seller.

The people of the State of California do enact as follows:

SECTION 1. Section 35277 of the Education Code is amended to read:

35277. For purposes of this article the following terms have the following meanings:

(a) “Affordable housing cost” has the same meaning as set forth in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the Health and Safety Code as applied to persons and families of low or moderate income.

(b) “Affordable rent” has the same meaning as set forth in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the Health and Safety Code as applied to persons and families of low or moderate income.

(c) “Extremely low income households” has the same meaning as set forth in Section 50106 of the Health and Safety Code.

(d) “Local governing agency” means a city in which a new schoolsite is located, or if a new schoolsite is located in an



unincorporated area, the county in which the new schoolsite is located.

(e) “Eligible nonprofit corporation” means a nonprofit public benefit corporation, nonprofit mutual benefit corporation, or a limited liability company in which the managing member is a nonprofit public benefit corporation or a nonprofit mutual benefit corporation.

(f) “New schoolsite” means real property acquired by a school district on and after January 1, 2003, for construction of a new schoolsite or for expansion of an existing schoolsite.

(g) “New schoolsite replacement housing” means housing to replace the residential dwelling units demolished or to be demolished in connection with a new schoolsite.

(h) “Persons and families of low income” has the same meaning as set forth in Section 50093 of the Health and Safety Code.

(i) “Persons and families of low or moderate income” has the same meaning as set forth in Section 50093 of the Health and Safety Code.

(j) “Very low income households” has the same meaning as set forth in Section 50105 of the Health and Safety Code.

(k) “Vicinity of a new schoolsite” means the area within the census tract in which a new schoolsite is located and the areas within the immediately adjacent census tracts.

SEC. 2. Section 35278 of the Education Code is amended to read:

35278. (a) If a school district or community college district has acquired a new schoolsite containing residential dwelling units, the local governing agency, community college district, or eligible nonprofit corporation may, consistent with this article, acquire real property for the purpose of new schoolsite replacement housing and utilize or convey the property according to this article, if all of the following conditions are met:

(1) The local governing agency has determined that an extreme shortage of affordable housing exists in the vicinity of the new schoolsite.

(2) The real property to be used for replacement housing is acquired by the local governing agency, community college district, or an eligible nonprofit corporation in the vicinity of a new schoolsite, or in an area designated in the local governing agency’s



replacement housing plan adopted pursuant to paragraph (1) of subdivision (e), within two years of the school district's acquisition of a possessory right to the new schoolsite.

(3) The combined area of the real property to be used for replacement housing acquired by the local governing agency, community college district, or an eligible nonprofit corporation pursuant to this article does not include any portion of the new schoolsite and does not, in acreage, exceed 150 percent of the area acquired by the school district for the new schoolsite.

(b) (1) A local governing agency or eligible nonprofit corporation may rehabilitate, develop, or construct residential facilities on the property for the purpose of providing new schoolsite replacement housing as set forth in this article.

(2) A community college district or eligible nonprofit corporation may acquire real property for the purpose of new schoolsite replacement housing only from a willing seller.

(c) Notwithstanding Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code or any other provision of law, a local governing agency, community college district, or eligible nonprofit corporation that has acquired real property for new schoolsite replacement housing pursuant to this article may convey the property to an affiliated public agency for the purpose of providing new schoolsite replacement housing. An affiliated public agency that has acquired real property pursuant to this section may rehabilitate, develop, or construct residential facilities on the property for the purpose of providing new schoolsite replacement housing in compliance with this article.

(d) Notwithstanding Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code or any other provision of law, a local governing agency, community college district, eligible nonprofit corporation, or an affiliated public agency, that has acquired real property for new schoolsite replacement housing pursuant to this article, may sell, lease for no more than 99 years, jointly develop, exchange, subdivide, transfer, assign, pledge, encumber by mortgage, deed of trust, or otherwise, or otherwise dispose of the real property or any interest in that property, or any portion thereof, for the purpose of providing new schoolsite replacement housing through the rehabilitation, development, or construction of



residential facilities or combined residential and commercial facilities on that property.

(e) (1) Any disposition of real property, pursuant to subdivision (d), acquired for new schoolsite replacement housing pursuant to this article shall be in furtherance of a replacement housing plan. The local governing agency, or community college district shall adopt a replacement housing plan for disposition of real property pursuant to this article, which shall meet all of the following requirements:

(A) The replacement housing plan shall include all of the following:

(i) A statement of the general location of housing to be developed pursuant to this section.

(ii) A description of the means of financing the development.

(iii) A finding that the actions to be taken pursuant to the plan do not require approval of the voters pursuant to Article XXXIV of the California Constitution, or that the approval has been or will be obtained.

(iv) A specification of the number of dwelling units housing persons and families of low income and persons and families of moderate income, respectively, that are planned for construction or rehabilitation.

(v) Provisions to ensure that persons displaced by the acquisition of a new schoolsite, and the acquisition of the new schoolsite replacement housing property pursuant to this article, shall have a right of first refusal for the purchase or rental of dwelling units developed in the replacement housing.

(vi) A description of any facilities for commercial use to be constructed in combination with the replacement housing.

(B) The number of dwelling units to be developed on the combined area of real property acquired pursuant to this article will be equal to a prescribed percentage, as determined by the local governing agency, or community college district, but in no event less than the sum of both of the following:

(i) Seventy-five percent of the total number of dwelling units demolished or to be demolished in connection with construction or expansion of school facilities on the new schoolsite.

(ii) The total number of dwelling units on the new schoolsite replacement housing property to be acquired pursuant to this article.



(C) Unless the local governing agency or community college district prescribes a greater number pursuant to subparagraph (D), the number of dwelling units developed on the property acquired for new schoolsite replacement housing pursuant to this article that are available at affordable housing costs or affordable rents shall be greater than, or equal to, the lesser of either of the following:

(i) A number equal to 50 percent of the dwelling units developed on the property acquired for new schoolsite replacement housing pursuant to this article.

(ii) The number of households of persons and families of low, or moderate, income displaced by the acquisition of the new schoolsite property and by the acquisition of the property for new schoolsite replacement housing pursuant to this article.

(D) A local governing agency, community college district, or eligible nonprofit corporation may require that all or any portion of the dwelling units, in addition to those required under subparagraph (C), be available at affordable housing cost or affordable rent to persons and families in lower income categories, including, persons and families of low income, very low income, or extremely low income. This section does not prohibit a local governing agency, community college district, or eligible nonprofit corporation from participating financially or otherwise to enable any housing developed pursuant to this article to serve households of lower income if the need for that housing is identified in, and consistent with, the replacement housing plan.

(2) For a reasonable period of time prior to adopting the replacement housing plan, the agency or community college district shall make available a draft of the proposed plan for review and comment by public agencies and the general public.



Approved _____, 2004

Governor

